Supreme Court, U.S.
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Nos. 86-495 and 86-624

In the Supreme Court of the United States

OCTOBER TERM, 1986

K MART CORPORATION, PETITIONER

v.

CARTIER, INC., ET AL.

47TH STREET PHOTO, INC., PETITIONER

v.

COALITION TO PRESERVE THE INTEGRITY OF AMERICAN TRADEMARKS, ET AL.

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE FEDERAL RESPONDENTS

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Petitioners contend that the court of appeals erred in holding that a Customs Service regulation, 19 C.F.R. 133.21(c), which permits parallel importation of U.S. trademarked goods under certain circumstances, is inconsistent with Section 526 of the Tariff Act of 1930, 19 U.S.C. 1526. Petitioner 47th Street Photo, Inc. additionally contends that the Court of International Trade has exclusive jurisdiction over actions involving the Customs Service regulation.

The federal government has also filed a petition for a writ of certiorari in this case. *United States* v. *Coalition to Preserve the Integrity of American Trademarks*, petition for cert. pending, No. 86-625 (filed Oct. 16, 1986).[1] Our

[1] The government challenges the court of appeals' holding that the Customs Service regulation is unlawful but does not contest the court's jurisdictional ruling.

position may not be identical to that of the private petitioners on the substantive question and differs from that of 47th Street Photo, Inc. on the jurisdictional question. However, we fully agree that the case merits this Court's review. Furthermore, we believe that the private petitioners—commercial enterprises that have placed substantial financial reliance on the Customs Service regulation—can provide this Court with a useful perspective on the questions presented.

It is therefore respectfully submitted that the petitions for a writ of certiorari should be granted, together with the government's petition in No. 86-625, and that the cases should be consolidated for this Court's review.

CHARLES FRIED
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OCTOBER 1986

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